

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 13TH JUNE 2007 / 23RD JYAISHTA 1929

WP(C).No. 22121 of 2004(H)

AGAINST THE ORDER IN OS 1501 1996 IN
EP.700/2001 of PRL.M.C.,ERNAKULAM
.....

PETITIONERS:

1. JOY JOSEPH S/O.P.D.JOSEPH,
VALUMMEL HOUSE, AREEKUZZHA, MUVATTUPUZHA,
NOW WORKING AT SOUTH INDIAN BANK,
MULANTHURUTHY BRANCH, MULANTHURUTHY.
2. JOSE GEORGE MANJOORAN,
MANJOORAN HOUSE, EDAPPALLY P.O., ERNAKULAM AND
NOW WORKING AT SOUTH INDIAN BANK,
KOLENCHERRY BRANCH, KOLENCHERRY.
3. K.M.VARGHESE S/O. K.P.MATHEW,
AT KANDATHIL HOUSE, M.V.T.A. ROAD,
TRIPUNITHURA, NOW WORKING AT SOUTH INDIAN BANK,
LOURD HOSPITAL EXTENTION, ERNAKULAM.

BY ADV. SRI.JOSHI N.THOMAS

RESPONDENT:

THE CATHOLIC SYRIAN BANK LTD.,
MARKET ROAD BRANCH, ERNAKULAM, REPRESENTED BY
ITS BRANCH MANAGER.

BY ADV. SRI.PETER THARAKAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 13/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX(WPC 22121/04)

PETITIONERS' EXTS.:

EXT.P1: PHOTO COPY OF THE JUDGMENT DATED 28.1.1998 IN O.S.1501/96 OF THE PRINCIPAL MUNSIFF COURT, ERNAKULAM.

EXT.P2: PHOTO COPY OF THE EXECUTION PETITION E.P.700/01 FILED BY THE RESPONDENT BEFORE THE PRINCIPAL MUNSIFF COURT, ERNAKULAM.

EXT.P3: PHOTO COPY OF THE OBJECTION DATED 12.2.2004 FILED BY THE 1ST PETITIONER BEFORE THE PRINCIPAL MUNSIFF COURT, ERNAKULAM.

EXT.P4: PHOTO COPY OF THE ORDER DATED 29.6.2004 IN E.P.700/01 IN O.S.1501/96 OF THE PRINCIPAL MUNSIFF COURT, ERNAKULAM.

PIUS C. KURIAKOSE,J.

W.P.(C) No.22121 of 2004

Dated: 13th June, 2007

JUDGMENT

Heard Mr.Joshi N.Thomas, counsel for the petitioners and Mr.Peter Tharakan, Standing Counsel for the respondent-Bank.

2. I do not find any warrant for interfering with Ext.P4 order passed by the execution court after enquiring into the objections raised by the petitioners to the execution court. Under the impugned order salaries of the petitioners are ordered to be attached. The petitioners do not have a case even at the bar that the amount ordered to be attached is in excess of the amounts permitted to be attached as per Section 60(1)(c). Mr.Joshi N.Thomas would submit that it is liability of the first petitioner to pay amounts since he was the principal borrower and that he is at least morally liable to reimburse the amounts which have been recovered from the salary of petitioners 2 and 3. According to him, the first petitioner's son is suffering from leukemia requiring very costly treatments. The first petitioner therefore is presently having considerable financial strains. On that reason there is justification for directing the respondent-Bank to reduce the interest rate. Since I do not find warrant for interfering with Ext.P4 under Article 227 of the Constitution, the challenge

against Ext.P4 will fail. However, the first petitioner is directed to approach the respondent-Bank after he has discharged the entire principal amount with appropriate representation seeking some remission in the matter of amounts payable on account of the post decree interest. I am sure that the respondent-Bank on receiving such a representation will consider the same with as much sympathy as it deserves and take a decision with intimation to the petitioners. Considering the submissions of Mr.Joshi Thomas, the order of stay presently passed will continue for a period of two more months from today. In the meanwhile it is open to the 1st petitioner to sort out the issue with the respondent-Bank.

The Writ Petition is disposed of as above. No costs.

srd

PIUS C.KURIAKOSE, JUDGE